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Crl.M.P.No.20006 of 2023 in Crl.R.C.No.2234 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.20006 of 2023

in

Crl.R.C.No.2234 of 2023

R.Bharathiraja

... Petitioner

Vs.

H.Chandrasekaran

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Sections 397(1) of Cr.P.C to suspend the sentence passed by the learned Additional District and Sessions Judge, Tiruvannamalai in Crl.A.No.21 of 2023 dated 04.09.2023 confirming the order of conviction passed by the learned Judicial Magistrate of Fast Track Court (Magisterial Level), Tiruvannamalai in C.C.No.68 of 2022 dated 28.02.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision petition.

For Petitioner : Mr.K.Gangadaran

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence of imprisonment imposed on him in C.C.No.68 of 2022 by a judgment dated 28.02.2023 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruvannamalai District and confirmed by the learned Additional District and Sessions Judge,



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Tiruvannamalai made in Crl.A.No.21 of 2023 dated 04.09.2023 and enlarge the petitioner on bail pending disposal of the above revision.

2.The petitioner, who is an accused in C.C.No.68 of 2022 in a private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, was convicted by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruvannamalai by judgment dated 28.02.2023 and sentenced to undergo six months simple imprisonment and directed to pay compensation of Rs.2,55,000/-. Aggrieved against the same, he preferred an appeal before the learned Additional District and Sessions Judge, Tiruvannamalai in Crl.A.No.21 of 2023. The learned Sessions Judge, by judgment dated 04.09.2023, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioner/accused filed Crl.R.C.No.2234 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.The contention of the petitioner is that the respondent was running a chit and the petitioner subscribed to the chit for a sum of Rs.1,00,000/- during April, 2018. The petitioner participated in the chit in the month of



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October, 2018 and received Rs.60,000/- after deducting the bid amount of Rs.40,000/-. At that time, the petitioner gave an unfilled signed cheque as a security for the part chit dues. This has been misused, filled up by the respondent for a sum of Rs.1,70,000/- and the above case has been filed. The petitioner totally so far paid the amount of Rs.78,200/-. The petitioner is not liable to pay the amount of Rs.1,70,000/- as claimed by the respondent.

4.In support of his contention, the petitioner examined himself as DW1 and other two witnesses as DW2 and DW3 and marked Exs.D1 to D5. The Trial Court as well as the Lower Appellate Court failed to consider that the petitioner has probalised his defence. He further submitted that the petitioner filed his revision on 14.12.2023. In the meanwhile, on the strength of the conviction warrant, the petitioner was arrested on 22.12.2023 and now he is in confinement in Central Prison, Vellore. He further submitted that the petitioner is ready to settle the issue and to show his bonafide, he is ready to pay Rs.85,000/-, which is 50% of the cheque amount of Rs.1,70,000/-. For the balance amount of Rs.85,000/-, learned counsel undertakes to pay the same within a period of one month from today. The suspension of sentence is necessary for the petitioner to come out and make arrangements to pay the



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balance amount. He further submitted that the petitioner has arguable points and fair chance of success in this revision. Hence, he prays for granting suspension of sentence to the petitioner.

5.As regards the suspension of sentence, since the petitioner has now come forward to settle the issue and ready to pay Rs.85,000/- (Rupees Eighty Five thousand only) (50% of the cheque amount) and undertakes to pay the balance amount within a period of one month, this Court is inclined to suspend the sentence imposed on the petitioner.

6.Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal Revision:

(a) The petitioner/accused is directed to deposit the amount of Rs.85,000/- (Rupees Eighty Five thousand only) to the credit of C.C.No.68 of 2022 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruvannamalai District.

(b) On such payment, the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.5,000/-



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(Rupees Five thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruvannamalai.

(c) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(d) The petitioner is directed to appear before the trial Court on the first working day of every English calendar month at 10.30 a.m., until the disposal of the criminal revision case and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

02.01.2024
(2/2)

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Note: Issue order copy on 02.01.2024.



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M. NIRMAL KUMAR, J.

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To

- 1.The Additional District and Sessions Judge,
Tiruvannamalai.
- 2.The Judicial Magistrate,
Fast Track Court (Magisterial Level), Tiruvannamalai.
- 3.The Superintendent, Central Prison, Vellore.
- 4.The Public Prosecutor, High Court, Madras.

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